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Message Text

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R 061425Z DEC 73
FM SECSTATE WASHDC
TO AMEMBASSY OTTAWA

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E.O. 11652: N/A
TAGS: ETRN, CA
SUBJ: COLLECTION OF US DEPARTURE TAX IN CANADA
REF: OTTAWA 2462, STATE 200670

1. DEPARTMENT CONCURS THAT NOTE TO EXTAFF WOULD BE USEFUL TO TRY TO MOVE SUBJECT ISSUE OFF DEAD CENTER. WE SUGGEST NOTE REFER TO FACT MATTER HAS ALREADY BEEN RAISED INFORMALLY (ORIGINALLY IN SEPTEMBER), US HOPES THAT PROMISED EXTAFF REVIEW OF MATTER WILL SOON BE COMPLETED, AND ENCLOSING PAPER DESCRIBING HOW TICKET SALE SYSTEM WORKS AND WHY ATC ORDER WORKS UNNECESSARY HARDSHIP ON ALL CONCERNED.

2. PROPOSED PAPER IS AS FOLLOWS:

UNDER US TAX LAW, US AIRLINES, AS WELL AS FOREIGN AIRLINES OPERATING IN THE UNITED STATES, ARE OBLIGED TO COLLECT AND REMIT TO THE US TREASURY THE TAX IMPOSED ON
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THE DEPARTURE OF EVERY PERSON LEAVING THE US BY AIR. THE

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AIRLINES MAY BE FINANCIALLY LIABLE IF THEY FAIL TO COLLECT THE TAX.

AS A MATTER OF CONVENIENCE TO THE PASSENGER, AS WELL AS ADMINISTRATIVE AND ACCOUNTING NECESSITY FOR THE AIR-LINES AND THEIR AGENTS, THE TAX IS COLLECTED WHEN THE

TICKET IS SOLD. ALTHOUGH THE TAX IS SHOWN SEPARATELY ON THE TICKET, THE PASSENGER PAYS BOTH THE FARE AND THE TAX IN ONE SUM AND IN A SINGLE TRANSACTION.

BOTH US AND CANADIAN AIRLINES UTILIZE THE SAME TRAVEL AGENTS AND CLEARING HOUSE ARRANGEMENTS. THUS, WHEN A TRAVEL AGENT SELLS A TICKET, HE COLLECTS THE FARE AND TAX, KEEPS HIS COMMISSION, AND REMITS THE BALANCE TO THE AIRLINE THROUGH THE CLEARING HOUSE MECHANISM. HE DOES NOT REMIT THE TAX SEPARATELY AND THERE IS THUS NO INCREASED COST TO THE AGENT IN COLLECTING THE TAX, NOR, OF COURSE, DOES HE IN ANY CASE REMIT THESE TAXES DIRECTLY TO THE US GOVERNMENT; RATHER, TAXES ARE FORWARDED TO THE CARRIER PRINCIPAL ON WHOSE BEHALF HE IS ACTING AS AGENT.

IF AIRLINES AND THEIR TRAVEL AGENTS ARE NOT PERMITTED TO COLLECT THE TAX AT THE TIME TICKETS (INVOLVING A US DEPARTURE) ARE SOLD IN CANADA, THERE ARE ONLY TWO POSSIBLE OUTCOMES, AS FOLLOWS:

1. WHEN THE PASSENGER PRESENTS HIS TICKET AT THE AIRPORT ON DEPARTURE FROM THE US, THE AIRLINE REPRESENTATIVE COLLECTS THE TAX, PRESUMABLY IN CASH. THIS OF COURSE, WILL NECESSARILY RESULT IN ADDITIONAL ACCOUNTING BY THE AIRLINES, INCONVENIENCE AND POSSIBLE ANNOYANCE FOR THE PASSENGER, AND DELAYS FOR OTHER PASSENGERS WAITING IN LINE. IT ALSO INTERFERES WITH THE STANDARD PRACTICE OF THE AIRLINE INDUSTRY THROUGHOUT THE WORLD THAT THE TICKETING CARRIER COLLECTS AND REMITS ALL TRANSPORTATION TAXES DUE, EVEN THOUGH THAT CARRIER MAY PROVIDE ONLY A PORTION OF A MULTI-CARRIER ROUTING.

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2. WHEN THE PASSENGER PRESENTS HIS TICKET ON DEPARTURE, THE TAX IS NOT COLLECTED BECAUSE THE AIRLINE REPRESENTATIVE OVERLOOKS IT, A NOT UNLIKELY OCCURENCE UNDER THE OFTEN RUSHED CONDITIONS AT AIRPORT BOARDING AREAS. IN THIS CASE, THE AIRLINE, WHETHER US OR CANADIAN, MAY BE IN VIOLATION OF ITS OBLIGATIONS UNDER US LAW. IN ORDER TO AVOID BEING IN POSSIBLE VIOLATION OF THESE REQUIREMENTS, THE

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AIRLINE WOULD HAVE TO CONDUCT A POST AUDIT OF ALL TICKETS COLLECTED, A TASK WHICH WOULD IMPOSE SEVERE ADMINISTRATIVE AND COST BURDENS ON ALL AIRLINES, BOTH US AND FOREIGN.

THE ATC ORDER THEREFORE DOES NOT APPEAR TO BENEFIT ANY PARTY AT INTEREST, WHETHER IT BE CANADIAN TRAVELERS, US AND CANADIAN AIRLINES OR THEIR AGENTS.

3. FYI. EMBASSY SHOULD BE AWARE THAT THE LEGAL OBLIGATION FOR PAYING THE TAX FALLS ON THE PASSENGER. THE AIRLINES ARE OBLIGED, UNDER THE LAW, TO COLLECT THE TAX FROM PASSENGERS AND THEY ARE LIABLE FOR WILLFUL NON-OBSERVATION OF THIS OBLIGATION. IT IS FOR THIS REASON THAT WORDING OF PAPER REFERS TO "AIRLINES MAY BE LIABLE". END FYI.

4. US INDUSTRY SOURCES REPORT CANADA INTENDS SHORTLY IMPOSE A 2.80 DOLLAR SERVICE CHARGE ON ALL AIRLINE TICKETS. NOT CLEAR WHETHER CHARGE MUST BE COLLECTED IF TICKET INVOLVING TRANSPORTATION WITHIN CANADA IS SOLD IN US, BUT IF THIS IS CASE IT WOULD BE ADDITIONAL REASON FOR CANADA ALLOW US DEPARTURE TAX TO BE COLLECTED IN CANADA. KISSINGER

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